HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No. 20206 of 2007

Between:

M/s. M.P.R. Enterprises,
Jagannadhapuram, Akkayapalem,
Visakhapatnam and three others.

… Petitioners

AND

Edagar Paul James and another.

… Respondents

: ORDER :

Counsel for the petitioners : Sri P. Satyanarayana

24th September, 2007

Per G.S. SINGHVI, C.J.

In this petition, the petitioners have prayed for quashing order dated 24-8-2007 passed by the Andhra Pradesh State Consumer Disputes Redressal Commission (for short, 'the State Commission') in R.P.Nos.81 and 86 of 2007 and for grant of two months time to comply with the direction given by District Consumer Forum-I, Visakhapatnam (for short, 'the District Forum') in C.D.No.850 of 2003.

Petitioner No. 1 is said to have constructed 20 flats, 15 of which were sold to the private persons. The respondents, who purchased Flat Nos.301 and 302, filed a complaint under Section 12 of the Consumer Protection Act, 1986 (for short, 'the Act) that there was deficiency of service in the building constructed by petitioner No.1 herein. The same was registered as C.D.No.850 of 2003. The District Forum allowed the complaint and directed the builder i.e. petitioner No.1 to remove the deficiencies/defects in the building. The District Forum also directed the complainant (the respondents herein) to deposit Rs.3,00,000/-.

After some time, the respondents filed a petition under Section 27 of the Act for punishing the petitioners by alleging that they have failed to comply with the direction given by the District Forum. The same was registered as E.A.No.94 of 2006. On 7-5-2007 and 25-5-2007, the District Forum issued non-bailable warrants against the petitioners, who then filed R.P.Nos.81 and 86 of 2007. They claimed that the directions given by the District Forum have already been complied, but the work relating to installation of lift could not be completed due to delay on the part of the contractor and shortage of power.

The State Commission noted that after initiation of the proceedings in E.A.No.94 of 2006, the petitioners have partly complied with the order of the District Forum and delivered possession of the

flats, and granted four weeks' time for removing the remaining deficiencies with a direction that non-bailable warrants be kept in abeyance for a period of four weeks and at the end of that period the revision petitioners should appear before the District Forum and submit compliance report.

Sri P. Satyanarayana submitted that the four weeks' time allowed by the State Commission for removing the remaining deficiencies namely, installation of lift, is too short and his clients will feel satisfied if two months further time is allowed to them for installation of the lift.

Ordinarily, we would have accepted the request of the petitioners, but in the facts of this case, we are not inclined to do so. The reasons for this are:

a) The petitioners have omitted to place on record the orders passed by the District Forum in C.D.No. 805 of 2003 and E.A.No.94 of 2006, perusal of which could have enabled us to appreciate the nature of the grievance made by the respondents and the direction given to petitioner No.1 to remove the deficiencies/defects in the building, as also the reason why the District Forum directed issue of non-bailable warrants against the petitioners. Learned counsel could not explain why the orders passed by the District Forum have not been made part of the record of this case. Therefore, we are constrained to presume that the petitioners have done so with a view to keep the Court in dark about the background in which they filed the revision petitions before the State Commission.

b) If the petitioners think that the time given by the State Commission for installation of lift is not sufficient, then they can always move the Commission for extension of time, and we see no reason to exercise power of this Court under Article 226 of the Constitution of India only for the purpose of facilitating delayed compliance of the orders passed by the District Forum.

In the result, the writ petition is dismissed. However, liberty is given to the petitioners to file appropriate application before the State Commission for extension of the time specified in order dated 24-8-2007.

As a sequel to dismissal of the writ petition, WPMP.No.26086 of 2007 filed by the petitioners for interim relief is also dismissed.

G.S. SINGHVI, C.J.

24th September, 2007

C.V. NAGARJUNA REDDY, J.

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